

[US 000387]

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I. INTRODUCTION

Claims 1-22 remain pending in this application. It is respectfully submitted that based on the following remarks, all of the presently pending claims are in condition for allowance.

II. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN

Claims 1-22 stand under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 5,758,257 to Hertz et al. ("Hertz") in view of U.S. Pat. No. 5,731,844 to Rauch et al. ("Rauch").

Rauch describes a selection program that provides program information to a television. The selection program obtains, from a user, a selection of a television program from a schedule layout. (See Rauch, col. 5, lines 13-18). Each time the user designates a program, the selection program increments a program counter associated with the designated program. The selection program controls the television to arrange channel entries based on an order of use from the channel entry whose program has been designated the most number of times. (Id. at col. 6, lines 32-42). In addition, topics from which corresponding programs may be selected are also displayed in order "based on a total number of times that the particular topic selected by the user has been selected in the past." (Id. at col. 11, line 53 – col. 12, line 20).

Claim 1 recites a method including the steps of "calculating, using a processor of the recommending device, an adjustment, A, to said recommendation score, R, based on a consistency which is a ratio of an item being selected by a user relative to the number of times the item was offered, wherein the number of times the item was offered and the number of times the item was selected by the user are stored in a memory" and "generating a combined recommendation score, C, based on said recommendation score, R, and said adjustment, A."

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The Examiner maintains that Rauch teaches "calculating an adjustment, A, to said recommendation score, R, based on a consistency which is a ratio of an item being selected by a user relative to the number of times the item was offered," as recited in claim 1. (See Office Action, pp. 2, 4). Applicants respectfully disagree with this contention. Rauch only states that the display of topics can be ordered based on a topic count that "indicates the *total* number of times that the particular topic has been selected *in the past*." (See Rauch, col. 12, lines 12-15). (Emphasis added). Nowhere does Rauch expressly state or imply that the topic count is a ratio. The Examiner states that in reordering the list based on the frequency of selection, it would be inherent to determine the ratio of the number of times a topic is selected to the number of times the topic was offered. However, this conclusion is unsupported by Rauch as cited above. The plain meaning of the passage cited indicates that the topic count is a cumulative total measured from a current point in time and extending backwards to an unknown starting point. Thus, the description of the topic count unqualifiedly states that the topic count is simply a running total.

The Examiner, by claiming that modifying the topic count with a ratio would be inherent, essentially suggests that such a modification is somehow implied by Rauch's disclosure. However, Rauch's description of the operation of the selection program suggests otherwise. In executing a topics routine, the display of topics is reordered following the selection of a topic. (Id. at col. 12, lines 15-20; Fig. 7, step 706). That is, the topics are only reordered in response to a change in the topic count, which as previously discussed, is independent of the number of times a topic might be offered. Furthermore, Rauch does not suggest a method by which the calculation of a topic count ratio might be effected. For example, if Rauch intended to calculate the ratio by determining a frequency of topic offering, it would be reasonable to assume that Rauch would specify a time period by which to measure such a frequency. Yet, in contrast to the present invention's explicit teaching of a variable time period, Rauch provides no showing whatsoever that such a time period was contemplated. This is a glaring omission that lends further weight to the conclusion that the ranking of programs/topics described by Rauch is based on a *frequency of selection*, not a *frequency of offering*.

Based on these reasons, it is respectfully submitted that neither Hertz nor Rauch, either alone or in combination, discloses or suggests "calculating, using a processor of the

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recommending device, an adjustment, A, to said recommendation score, R, based on a consistency which is a ratio of an item being selected by a user relative to the number of times the item was offered," as recited in claim 1. Because claims 2-7 depend from, and, therefore include the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Claim 8 recites "calculating, using a processor, a recommendation score for said one or more items based on a consistency which is a ratio of an item being selected by a user relative to the number of times the item was offered." Thus, it is respectfully submitted that claim 8 is allowable for at least the same reasons as claim 1. Because claims 9 and 10 depend from, and, therefore include the limitations of claim 8, it is respectfully submitted that these claims are also allowable.

Claims 11 and 21 recite a processor and a computer code to "calculate an adjustment, A, to said recommendation score, R, based on a consistency which is a ratio of an item being selected by a user relative to the number of times the item was offered." Thus, it is respectfully submitted that claims 11 and 21 are allowable for at least the same reasons as claim 1. Because claims 12-17 depend from, and, therefore include the limitations of claim 11, it is respectfully submitted that these claims are also allowable.

Claims 18 and 22 recite a processor and a computer code to "calculate a recommendation score for said one or more items based on a consistency which is a ratio of an item being selected by a user relative to the number of times the item was offered." Thus, it is respectfully submitted that claims 18 and 22 are allowable for at least the same reasons as claim 1. Because claims 19 and 20 depend from, and, therefore include the limitations of claim 18, it is respectfully submitted that these claims are also allowable.

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CONCLUSION

In view of the above remarks, it is respectfully submitted that all the presently pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Please direct all future correspondence to:

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